IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7227 of 1999

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CHANDUBHAI AMBALAL VALAND - Petitioner(s)

Versus

ASSISTANT COMMISSIONER OF LABOUR & 1 - Respondent(s)

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Appearance :

MR MUKESH H RATHOD for Petitioner No(s).: 1.

MS HANSHA PUNANI, AGP for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 08/08/2005

ORAL ORDER

By way of this petition, the petitioner has challenged the order of the Assistant Commissioner of Labour, Dist.Kheda, dated 25th Feb. 1999 on the ground that in view of the resignation in VRS Scheme, the petitioner has accepted the amount and in that view of the matter, no dispute was referred to the Labour Court.

2. The brief facts of the case are that, the petitioner was working with J.E.M. Industries Ltd., Mogar since 18 years on the post of Helper. Because of an incident happened on 18.9.1997, the petitioner came to be suspended on 20.9.1997 and the chargesheet was served upon him on 24.9.1997, which was replied by the petitioner on 28.9.1997. On 18.11.1997, an inquiry was initiated. It is the case of the petitioner that his employer obtained illegal resignation by fraud and force from the petitioner.

3. I have heard Mr.Rathod, learned Counsel for the petitioner and Ms.Hansa Punani, learned AGP for respondent No.1. Mr.Rathod submitted that the Conciliation Officer has travelled beyond the powers conferred upon him under the Industrial Disputes Act, 1947. It is submitted by him that the Conciliation Officer has to examine whether there is an industrial dispute and such an issue has to be decided by the appropriate authority. Ms.Punani, learned AGP for respondent No.1 contended that in view of the fact that the petitioner has accepted the amount, there is no question of industrial dispute and in that view of the matter, the view taken by the Conciliation Officer is just.

4. Having heard learned Counsel for the petitioner and learned AGP, in my view, the Conciliation Officer has to see whether there is an industrial dispute or not, and if so, the power is with the Labour Court to decide the same. Therefore, in my view, there is a dispute and the same is required to be referred to the Labour Court. Hence, the order passed by the Assistant Commissioner of Labour, is quashed and set aside and the matter is remanded to the competent authority who shall decide the same within two months from today. The petition is allowed to the aforesaid extent and the Rule is made absolute. No order as to costs.

(K.S.Jhaveri, J.)

Sreeram.